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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 FEDERAL TRADE COMMISSION,

Case No. 2:18-cv-0030-JCM-PAL

8 Plaintiff,

ORDER

9 v.

(Mot Quash Subpoenas – ECF No. 154)

10 CONSUMER DEFENSE LLC, et al.,

(Mot Compel – ECF No. 159)

11 Defendants.

12 Before the court is defendant Jonathan Hanley's Motion to Quash Subpoenas  
13 (ECF No. 154). Also before the court is defendant Jonathan Hanley's Motion to Compel  
14 Production of Records from the Receiver (ECF No. 159). The court has considered the motions,  
15 plaintiff's Opposition to the Motion to Quash Subpoenas (ECF Nos. 163), the Receiver's  
16 Opposition to the Motion to Compel (ECF No. 166), and Hanley's Reply to the Receiver's  
17 Opposition (ECF No. 173).

18 **BACKGROUND**

19 This is an action filed by plaintiff, Federal Trade Commission ("FTC") under Section 13(b)  
20 of the Federal Trade Commission Act and the 2009 Omnibus Appropriations Act, as clarified and  
21 amended. On January 10, 2018, the district judge entered an ex parte temporary restraining order  
22 ("TRO") at the request of the FTC freezing the defendants' assets, appointing a receiver, and  
23 granting other equitable relief against the defendants.

24 On February 15, 2018, the district judge held a hearing on an order to show cause why a  
25 preliminary injunction should not be issued against the defendants. Following the hearing, he  
26 entered a preliminary injunction (ECF No. 55). The preliminary injunction made findings of fact  
27 and prohibited the defendants, their officers, agents, employees and attorneys, and all other persons  
28 in active concert or in participation with them from engaging in specified business activities. The

1 preliminary injunction also prohibited the defendants, their officers, agents, employees and  
2 attorneys, and other persons in active concert or in participation with them from collection of  
3 advanced fees, required certain specified disclosures, and the release of customer information. The  
4 preliminary injunction imposed an asset freeze, specified the duties of asset holders and other third  
5 parties, required certain financial disclosures, foreign asset repatriation, and that the defendants  
6 not interfere with repatriation. The preliminary injunction also permitted the FTC to obtain  
7 consumer credit reports and directed the defendants, their officers, agents, employees and attorney  
8 and all other persons in active concert or participation with them to preserve records and report  
9 new business activity. Additionally, the preliminary injunction continued the receivership and  
10 outlined the duties and authority of the receiver, ordered the transfer of receivership property to  
11 the receiver and required the defendants to immediately provide the receiver with information, and  
12 cooperate with the receiver. Finally, the preliminary injunction imposed a stay prohibiting and  
13 enjoining the defendants and all others acting for or on behalf of those seeking to establish or  
14 enforce any claim right or interest by or on behalf of the defendants from taking action that would  
15 interfere with the exclusive jurisdiction of this Court over the Assets or Documents of the  
16 Receivership Entities.

17 On August 2, 2018, the court approved the parties' stipulated discovery plan and  
18 scheduling order which requested special scheduling review. The discovery plan and scheduling  
19 order (ECF No. 121) established a March 15, 2019 discovery cutoff and an April 15, 2019 deadline  
20 to file dispositive motions. On December 26, 2018, the court granted the parties' Stipulation  
21 (ECF No. 170) extending the discovery cutoff until June 14, 2019, with dispositive motions due  
22 July 15, 2019. *See* Scheduling Order (ECF No. 171).

23 Pro se defendant Jonathan Haley seeks to quash two non-party subpoenas the FTC served  
24 on The Los Angeles Rams and the University of Utah arguing the FTC is engaging in a fishing  
25 expedition, the documents sought are not relevant and the discovery requested creates an undue  
26 burden. The FTC opposes the motion arguing neither of the non-parties has claimed compliance  
27 with the subpoenas would create an undue burden, and that the subpoenas were narrowly tailored.  
28 The FTC served these subpoenas to identify the purchaser of football tickets and source of payment

1 of those tickets based on information provided by the Receiver. Haley's purchase and use of the  
2 tickets is relevant to whether he has violated the TRO and PI, and undermine claims made in his  
3 motion for release of funds for living and legal expenses. The FTC's opposition outlines other  
4 reasons why discovery sought by these subpoenas is relevant. The RAMs produced four pages of  
5 documents responsive to the subpoena served on it and the University of Utah produced nine pages.  
6 The FTC also maintains the motion to quash was filed in the wrong court and that Hanley has no  
7 standing to seek to quash.

8 Hanley's Motion to Compel seeks an order compelling the court appointed Receiver,  
9 Thomas McNamara ("McNamara") to produce email accounts over which the Receiver has had  
10 full administrative control based on the Receiver's report of January 24, 2018. Hanley says he has  
11 requested production of and access to these email accounts which are crucial to his affirmative  
12 defenses "specifically, that dilatory actions of third parties directly obstructed corporate  
13 Defendants ability to effectively do their job." Additionally, the emails will show that several of  
14 the FTC declarants perjured themselves and mislead the court. He believes there is a strong  
15 possibility that this perjury occurred at the direction of, or assistance of FTC investigators.

16 The Receiver opposes the motion arguing that he had a productive relationship with the  
17 Hanley's counsel, but since counsel was granted leave to withdraw "that has not been the case"  
18 with Mr. Hanley. Counsel for the Receiver claims Hanley has been demanding, belligerent and  
19 has threatened to sue FTC declarants and third parties, issued sweeping discovery across the  
20 country and promised to make things "complex very quickly." The Rules Hanley cites in his  
21 motion only apply to parties and the Receiver is not a party and therefore not subject to the Rules  
22 cited in support of Hanley's motion.

23 Additionally, the Receiver represents that on December 8, 2018 he produced copies of the  
24 limited Receivership Entities' emails in his possession requesting that Hanley withdraw his motion  
25 to compel. Counsel for the Receiver also explained to Hanley that he had previously provided  
26 Hanley with copies of every email account that had been copied, and that he should be able to get  
27 a copy of the mailboxes from the FTC. Counsel for the FTC therefore requests that the motion be  
28 denied and sanctions in the form of attorneys' fees and costs incurred be assessed to deter future

1 misconduct that wastes judicial resources and the assets of the Receivership Estate. The opposition  
2 is supported by the declaration of counsel and multiple exhibits.

### 3 **DISCUSSION**

4 Having reviewed the moving and responsive papers the court finds both motions are  
5 meritless. The subpoenas issued to the Rams and the University of Utah were issued to out-of-  
6 state non-parties who have not objected to producing the requested documents or claimed that  
7 compliance with the subpoenas would create an undue burden. The FTC has articulated multiple  
8 persuasive reasons why the discovery sought is relevant.

9 Hanley's motion to compel does not attach a copy of the discovery request showing it was  
10 served on either a party or non-party for the emails he seeks in discovery either under a Request  
11 for Production served under Fed. R. Civ. P. or a subpoena served under Fed. R. Civ. P. 45. Hanley  
12 has also not complied with the requirements of Local Rule 26-7 (b) &(c). Moreover, the  
13 declaration of counsel for the Receiver indicates that the emails in the Receiver's possession which  
14 were obtained from the FTC were either produced or available through the FTC. The Receiver  
15 asks for attorneys' fees to deter Hanley from wasting judicial resources and dissipating  
16 receivership assets by filing unnecessary unfounded motions.

17 The court finds that both motions are indeed a waste of judicial resources and an  
18 unnecessary dissipation of the assets of the receivership estate. Hanley is warned that sanctions  
19 will be imposed for any future abusive litigation misconduct requiring the court, the parties, or  
20 non-parties to expend unnecessary resources on motion practice. Hanley may obtain discovery  
21 authorized by the Federal Rules of Civil Procedure. He may not, however, serve discovery  
22 requests on parties or non-parties "for any improper purpose, such as to harass, cause unnecessary  
23 delay, or needlessly increase the cost of litigation" nor may he serve discovery that is  
24 "unreasonable nor unduly burdensome or expensive, considering the needs of the case, prior  
25 discovery in the case, the amount in controversy, and the importance of the issues at stake in the  
26 action." Fed. R. Civ. P 26(g)(B).


27 **IT IS ORDERED** that:

28 1. Hanley's Motion to Quash Subpoenas (ECF No. 154) is **DENIED**.

1 2. Hanley's Motion to Compel Production of Records from the Receiver (ECF No. 159)  
2 is **DENIED**.

3 **3. Hanley is warned that filing of frivolous motions, motions which do not comply**  
4 **with the requirements of the Federal Rules of Civil Procedure and the Local Rules**  
5 **of Practice, and/or motions filed for any improper purpose is abusive litigation**  
6 **conduct which may result in the imposition of monetary and other sanctions,**  
7 **including reasonable costs and attorneys' fees caused by the violation, up to and**  
8 **including a recommendation to the district judge of case dispositive sanctions.**

9 DATED this 22nd day of February 2019.

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11 PEGGY A. LEEN  
12 UNITED STATES MAGISTRATE JUDGE  
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